THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 23046 of 2005

O r d e r:

Questioning the rejection order dated 15.02.2005 passed by the 1st respondent declining to appoint her son on compassionate grounds, the petitioner filed the present writ petition.

The petitioner's husband while working as Draftry with the respondents-Bank died in harness on 19.08.2001. After his death, she made a representation to the Chairman and Managing Director of the respondent-Bank through the 4th respondent on 01.09.1990 seeking appointment to her son on compassionate grounds. As the same was not considered and no appointment was given to her son, she filed W.P. No. 21881 of 2004, and this Court, by order dated 15.12.2004, directed the respondent-Bank to consider the case of the petitioner in accordance with the scheme framed by them. Subsequently, the 1st respondent, by order impugned in this writ petition, considered the case of the petitioner and rejected her claim on the grounds that the petitioner was paid a sum of Rs.2.23 lakhs towards terminal benefits of her husband, she has been drawing family pension of Rs.3,318.37 ps., per month, her family owns deposits to the tune of Rs.2.65 lakhs, and both of her sons completed their graduation even by the date of death of her husband and now they are aged 32 and 29 years respectively and there are no other dependants in her family. Aggrieved by the said order, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that in spite of recommendations made by the 4th respondent recommending the candidature of petitioner's son for compassionate appointment, the respondent-Bank failed to consider the case of the petitioner and the

action of the respondent-Bank in rejecting her claim is illegal and arbitrary. He submits that even though it is stated in the impugned order that an amount of Rs.2.23 lakhs was paid to the petitioner towards terminal benefits of her husband, the respondent-Bank recovered all the amounts due by her husband towards outstanding loans from that amount and paid few thousands to the petitioner. He further submits that in the case of other deceased employees, the respondent-Bank had not only paid more amounts towards terminal benefits than the amounts paid to the petitioner and provided family pension, but also provided appointment on compassionate grounds to one of the dependants of the deceased, and not providing employment to the son of the petitioner on compassionate grounds, is discriminatory.

The respondents filed counter. The learned Standing Counsel for the respondents reiterating the counter averments submitted that pursuant to the death of her husband, the petitioner was paid an amount of Rs.2.23 lakhs towards terminal benefits, she is also drawing an amount of Rs.3,318.37 ps., per month towards family pension, and her family owns deposits to the tune of Rs.2.65 lakhs. He further submits that the respondent-Bank, pursuant to the orders of this Court passed in W.P. No. 21881 of 2004, having considered the case of the petitioner and having found that she has sufficient means, and her family is not found to be in destitute, declined her request for appointment on compassionate grounds to her son, and there are no reasons to interfere with the same. He further submits that the respondent-Bank, after considering the case of each individual on its own merits, has provided compassionate appointment to some of the dependents of the employees, who died in harness and the rejection of the case of the petitioner for providing appointment on compassionate grounds to her son, is on just and equitable grounds. He denied there is any discrimination, and prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents and perused the material papers produced by the respondents.

The main object of providing compassionate appointment to the family member of a deceased is to enable the family of the deceased to tide over the sudden crises that befalls on the death of the sole bread winner and grant of compassionate employment is not a matter of right. Providing of appointment on compassionate grounds is an exception to the normal rule of recruitment, and it depends upon the statutory framework. The apex Court in ***Shri Umesh Kumar Nagpal v. State of Haryana and others***[1], has noted the objects of granting compassionate employment, and they are:

> I. (i) To enable the family to tide over the sudden crises by the death of the sole bread winner;
> (ii) To relieve the family of the financial destitution and to help to get over the emergency. The object is not to give a member of such family a post.
> II. Mere death of an employee in harness does not entitle his family to such source of livelihood.
> III. The government or public authority has to examine the financial condition of the family of the deceased, and only if it is satisfied, but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.
> IV. The only ground, which can justify compassionate appointment, is the penurious financial condition of the family at the time of death of the employee. Offering employment irrespective of the financial condition of the family is legally impermissible.
> V. Consideration for compassionate employment is not a vested right to be exercised at any time in future.

In the instant case, a perusal of the impugned order coupled with the counter-affidavit and the material papers produced by the respondent-Bank shows that the competent authority considered the financial condition of the family of the deceased in the light of the afore-mentioned judgment, and the case of the petitioner for appointment of her son on compassionate grounds was declined on

the grounds that she was paid a sum of Rs.2.23 lakhs towards terminal benefits of her husband, she is drawing family pension of Rs.3,318.37 ps., per month, her family owns deposits to the tune of Rs.2.65 lakhs, and both of her sons have completed their graduation even by the date of death of her husband and now they are aged 32 and 29 years respectively and there are no other dependants in her family.

However, the contention of the petitioner is that even though it is stated in the impugned order that an amount of Rs.2.23 lakhs was paid to her towards terminal benefits of her husband, the respondent-Bank recovered all the amounts due by her husband towards outstanding loans from that amount and paid few thousands to her. But, the petitioner has not produced any material before this Court to substantiate the said contention. Since, in the counter affidavit filed by the respondent-Bank, it is asserted that they paid an amount of Rs.2.23 lakhs to the petitioner towards terminal benefits of her husband, the contention of the petitioner that she received only few thousands towards terminal benefits cannot be accepted.

The next ground urged by the petitioner is that in the case of the other deceased employees, the respondent-Bank, though paid comparatively more amount towards terminal benefits and family pension than to the petitioner and provided appointment on compassionate grounds to one of the dependants of the deceased, the action of the respondents-Bank in not providing employment to her son on compassionate grounds, is discriminatory. In this regard, learned Standing Counsel for the respondent-Bank has produced copy of minutes issued by the respondent-Bank giving reasons for selection of 20 candidates on compassionate grounds. On a perusal of the same, it is clear that in all those cases the family members of the deceased are more in number apart from the wife and mother, and in almost all the cases, the children are school going children and in some cases there are more than two children, and in some other cases there are

five to six children. In the instant case, the petitioner's son is a major, and it cannot be said that he would not get employment. Hence, taking into consideration of those circumstances, the respondent-Bank has considered each individual case on its own merits and provided compassionate appointment to some persons. But, the case of the petitioner cannot be compared with those cases, for the reason that in the instant case, as is evidenced by the material produced by the respondents, the petitioner, after the death of her husband, was paid an amount of Rs.2.23 lakhs towards terminal benefits. Apart from that she is drawing an amount of Rs.3,318.37 ps., per month towards family pension, and her family owns deposits to the tune of Rs.2.65 lakhs. The quantum of amount received by the petitioner towards terminal benefits of her husband and the quantum of pension being received by her, clearly go to show that the petitioner is not suffering from any financial distress, and having regard to the quantum of amounts received, cannot be said to be not sufficient for the sustenance of the petitioner and her children, and for whom the petitioner sought compassionate appointment. In that view of the matter, I see nothing wrong in the action of the respondent-Bank in rejecting the case of the petitioner for providing appointment to her son on compassionate grounds, more so when grant of compassionate appointment, is not a vested right, and is granted only to tide over the immediate financial crisis that befalls on the family on the death of the sole bread winner.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 1st September, 2006.
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1 1994 (4) SCC 138